



**Fw: C150037 and C150038**

**David Natoli to: KHeffernan**

**Cc: Kevin P Volk, Harry L Zieber, Michael Ostrander**

10/15/2014 09:51 AM

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History: This message has been forwarded.

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Kathy:

The Senate is in the process of gathering the necessary paperwork with each law firm. However, it is my understanding that one of the signatories is out of the Country and will not be returning until sometime next week. Therefore, the amended and executed paperwork will not be sent to OSC until late next week (approximately 10/23) at the earliest.

Thank you for your anticipated patience and cooperation in this matter.

Regards,

David J. Natoli  
Chief Fiscal Officer  
Accounts Payable / Payroll  
Suite 1536 AESOB  
AP Fax # 518 426-6832  
Payroll Fax# 518 426-6849

Mailing Address:  
Suite 1536  
Legislative Office Building  
Albany, NY 12247

From: KHeffernan@osc.state.ny.us  
To: Kevin P Volk <volk@nysenate.gov>  
Date: 10/14/2014 10:55 AM  
Subject: Re: C150037 and C150038

Hi Kevin,

I was just following up on the revised documentation needed to correct the rates charged for the paralegals and remove the language relative to the AG approval. Can you just let me know the status of the signed revisions?

Thanks,

Kathy Heffernan  
Office of the State Comptroller  
Bureau of Contracts  
Phone: (518) 402-2626  
Fax: (518) 474-8030  
kheffernan@osc.state.ny.us

From: Kevin P Volk <volk@nysenate.gov>

To: KHeffernan@osc.state.ny.us,  
Cc: David Natoli <natoli@nysenate.gov>, Michael Ostrander  
<mostrand@nysenate.gov>, Harry L Zieber <zieber@nysenate.gov>  
Date: 10/03/2014 12:03 PM  
Subject: C150037 and C150038

Kathy, Attached is the response to your questions and we will be working with the law firms to get the requested paperwork. Thank you

(See attached file: LoebKirkalndresponse .pdf)

Kevin P. Volk  
NYS Senate  
Accounts Payable  
Office Manager  
(518) 455-3151  
(518) 426-6832 Fax[attachment "LoebKirkalndresponse .pdf" deleted by  
KathyAnn Heffernan/MASFS/NYSOSC]

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**C150037 and C150038**

Kevin P Volk to: KHeffernan

10/03/2014 12:03 PM

Cc: David Natoli, Michael Ostrander, Harry L Zieber

History:

This message has been replied to and forwarded.

1 attachment



LoebKirkalndresponse .pdf

Kathy, Attached is the response to your questions and we will be working with the law firms to get the requested paperwork. Thank you

(See attached file: LoebKirkalndresponse .pdf)

Kevin P. Volk  
NYS Senate  
Accounts Payable  
Office Manager  
(518) 455-3151  
(518) 426-6832 Fax



1. Were any other firms considered? If yes, what was the basis for the determination that the other firms considered were not viable options?

**No other firms were considered. The selection of Kirkland & Ellis was designed specifically to secure the services of Michael Garcia, the former United States Attorney for the Southern District, given the anticipated nature of the litigation matters and the need for a global strategy in the possible expansion of matters into the federal realm. The firm and Mr. Garcia in their white collar practice deal with the breadth and scope of subpoena power and defending against its abuse, all matters that the Senate understood would be essential to the management and conduct of the litigation that was to be had.**

**As to the selection of Loeb and Loeb, the selection of Jay Musoff was designed to provide the IDC with its own separate counsel in order to protect the individual conferences, their rights and privileges under Rivera v. Espada, which extended the speech and debate privilege to the individual Senator's conference participation.**

2. Please provide the justification for the reasonableness of the proposed rates.

**The rates in all respects are below market rates for such services. The Senate negotiated blended or lower per hour rates for the lead attorney in an attempt to minimize the cost to the public fisc.**

3. The contracts identify the total value for legal services, expert witness, investigator and consultant services, and incidental costs shall not exceed \$150,000. Travel was not specifically called out as included in the not-to-exceed amount. Is travel included as part of the incidentals, or is the travel not included in the \$150,000 cap? If the later, why doesn't the \$150,000 cap include travel, and what is the amount estimated for travel? Please also clarify what is included under incidentals.

**The contracts anticipated little or no travel given that the matters were venued and to be venued in New York City where the firms' offices are. In a few cases counsel needed to travel to review documents and the expense was incidental.**

**Incidental expenses is meant to be those expenses which are or would be part of the "meals and incidental expenses reimbursement" rates provided by the IRS.**

4. While in travel status, will the Contractor be reimbursed at the full rates defined in Appendix B, or will a discounted rate be applied to time in travel if legal services are provided?

**Travel is considered part of the services rendered but given any travel was coterminous with legal services the full rate set is applicable.**

**5. As the Office of the Attorney General (AG) has recused itself from review and approval of the subject contracts, Section O needs to be revised. As currently written, the contract will not be valid until the AG has approved the agreement. Please provide either a letter amendment to revise Section O or provide pen and ink change pages initialed by all parties.**

**This will be done.**

**6. What was the reason for the delay in submitting the contracts for approval? As the services began in September 2013, please provide the estimated expenses to date for each contract.**

**The delay in the submission in the contracts was occasioned by the need to respond to immediate and fluid situations dictated by our adversaries and their agents. In the initial stages of the matter, it was hoped and expected that there would be no need for litigation but merely consultation and thus the initial steps would not be over the amount needed for the submission of contracts for approval. In a rapid and escalating series of moves and countermoves, the need for the legal services and the need for the immediacy of such services expanded solely in order to respond to unforeseen contingencies..**

**The following information is requested specifically for Contract C150038:**

**7. The summary memo identified that Loeb & Loeb has both the unique and specific experience and personnel that is required for this effort. Similar to what was included in the summary memo for C150037, please elaborate on the specific and unique experience that the firm possesses for this effort.**

**The firm and Mr. Musoff in their white collar practice deal with the breadth and scope of subpoena power and defending against its abuse, all matters that the IDC understood would be essential to the management and conduct of the litigation that was to be had.**

**8. In the cost justification requested in item 2 above, please also address why it is reasonable to bill for the paralegals and support staff at the same rate (\$375) billed for Partners and Associates.**

**This rate is an oversight and we will correct the schedule. The rate for paralegals and support staff should be listed at \$190 per hour.**

**Thank you for your assistance,**

[REDACTED]

From: Kevin P Volk <volk@nysenate.gov>  
To: JIwaneczko@osc.state.ny.us,  
Date: 06/16/2014 01:05 PM  
Subject: Re: Fw: Senate Contracts -- C-150037 (Kirkland & Ellis LLP) and C- 150038 (Loeb & Loeb LLP)

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Jim, If Harry Z comes in tomorrow I would like to get it down to you tomorrow or Wednesday. I will be give you a heads up when they are walked down to the OSC mail room. Thanks

Kevin P. Volk  
NYS Senate  
Accounts Payable  
Office Manager  
(518) 455-3151  
(518) 426-6832 Fax

From: JIwaneczko@osc.state.ny.us  
To: Volk@nysenate.gov  
Date: 06/16/2014 11:58 AM  
Subject: Fw: Senate Contracts -- C-150037 (Kirkland & Ellis LLP) and C-  
150038 (Loeb & Loeb LLP)

Kevin - -  
Do you know when you will be sending these to us?

Jim Iwaneczko  
OSC - Bureau of Contracts  
PH: (518) 474-6494  
FAX: (518) 474-8030  
jiwaneczko@osc.state.ny.us  
----- Forwarded by James Iwaneczko/MASFS/NYSOSC on 06/16/2014 11:56 AM  
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[REDACTED]

[REDACTED]

[REDACTED]

From: Meg Levine <Meg.Levine@ag.ny.gov>  
To: "zieber@nysenate.gov" <zieber@nysenate.gov>,  
Cc: Lorraine Remo <Lorraine.Remo@ag.ny.gov>, Charlotte  
Breeyear/MASFS/NYSOSC <CBREEYEAR@osc.state.ny.us>  
Date: 06/13/2014 04:04 PM  
Subject: Senate Contracts -- C-150037 (Kirkland & Ellis LLP) and C-  
150038 (Loeb & Loeb LLP)

Harry, I write to confirm our discussion earlier this week where I indicated that the Office of the Attorney General recuses itself from review of the above-referenced contracts due to the litigation involving the Moreland Commission -- New York State Senate et al v. Commission to Investigate Public Corruption, Supreme Court, New York County, Index No. 160935/2013 -- where the Office of the Attorney General appeared on behalf of the Commission. These contracts are for services rendered by the Commission's adversaries in that litigation. Accordingly, our office is forwarding the contracts directly to the Office of the State Comptroller for review. Regards, Meg Levine

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**From:** Lorraine Remo <Lorraine.Remo@ag.ny.gov>  
**To:** Meg Levine <Meg.Levine@ag.ny.gov>, "zieber@nysenate.gov" <zieber@nysenate.gov>,  
**Cc:** Charlotte Breeyear/MASFS/NYSOSC <CBREEYEAR@osc.state.ny.us>  
**Date:** 06/13/2014 04:19 PM  
**Subject:** RE: Senate Contracts -- C-150037 (Kirkland & Ellis LLP) and C- 150038 (Loeb & Loeb LLP)

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Harry, Kirkland and Ellis is approvable as to form. Loeb and Loeb: You need to attach an Appendix B as it is missing.

Also, the Jan 2014 version of State Appendix A should be attached to the contract. You can pick up both Monday.

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**From:** Meg Levine  
**Sent:** Friday, June 13, 2014 4:05 PM  
**To:** zieber@nysenate.gov  
**Cc:** Lorraine Remo; Charlotte Breeyear/MASFS/NYSOSC  
**Subject:** Senate Contracts -- C-150037 (Kirkland & Ellis LLP) and C- 150038 (Loeb & Loeb LLP)  
**Importance:** High

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**From:** Lorraine Remo <Lorraine.Remo@ag.ny.gov>  
**To:** Meg Levine <Meg.Levine@ag.ny.gov>, "zieber@nysenate.gov" <zieber@nysenate.gov>,  
**Cc:** Charlotte Breeyear/MASFS/NYSOSC <CBREEYEAR@osc.state.ny.us>  
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